



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women
Fifty-ninth session**

Summary record of the 1259th meeting

Held at the Palais des Nations, Geneva, on Wednesday, 29 October 2014, at 10 a.m.

Chairperson: Ms. Ameline

later: Ms. Jahan (Vice-Chairperson)

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention (continued)

Combined initial and second periodic reports of Brunei Darussalam (CEDAW/C/BRN/1-2; CEDAW/C/BRN/Q/1-2 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Brunei Darussalam took places at the Committee table.*
2. **Ms. Othman** (Brunei Darussalam), introducing the combined initial and second periodic reports of Brunei Darussalam (CEDAW/C/BRN/1-2), said that, after the State's accession to the Convention in 2006, a dedicated task force had been established to oversee the preparation of the initial report and implementation of the Convention's provision in general, adding to the various mechanisms for promoting and protecting women's rights that were already in place. Close consultations had been conducted with relevant public and private sector stakeholders including the Council of Women of Brunei Darussalam and the Women's Business Council both prior to accession and during the report preparation process, ensuring that all agencies with an interest in policies affecting women had the opportunity to contribute.
3. While the official religion of Brunei Darussalam was Islam, as set forth in the Constitution of 1959 and the amended version of 2004, non-Muslims were free to practise their religion in peace and harmony. Sharia law had been a feature of the legal infrastructure since the fourteenth century and had been formally enshrined in a number of modern legal texts, including the Islamic Family Act of 2000. The nation's unique legal infrastructure, in which the common law system operated alongside the sharia law system, had been further strengthened in May 2014 with the entry into force of the Sharia Penal Code Order.
4. The 30 years since independence had brought the country peace, growth, prosperity and a vastly improved quality of life which was reflected, inter alia, in higher life expectancy and educational attainment. Women had contributed to those advances and had shared in the benefits. As a result, the Gender Development Index used to measure gender equality in health, education and access to economic resources had risen to 0.981.
5. The principal recent policy development had been the adoption of five discrete national action plans focused, respectively, on women's issues, family institutions, poverty eradication, the situation of older persons and disability. All of the action plans were available for public consultation online and their development and implementation was the responsibility of special committees which met on a monthly basis. The National Action Plan on Women outlined various lines of action in priority areas including legal rights, economic empowerment, work-life balance and data management. Specific lines of action envisaged included a review of laws, policies and regulations to ensure that gender was mainstreamed not only in existing policies but also in the formulation of future policies, and capacity-building initiatives to enhance women's employability and develop their entrepreneurial skills.
6. In education, recent developments had included the introduction of a technical and vocational scholarship scheme which, although available to all students, had so far benefited more young women than men. Women already outnumbered their male counterparts in post-secondary and pre-university education and the World Economic Forum *Global Gender Gap Report 2014* placed Brunei Darussalam in seventh position in terms of girls' enrolment in tertiary education. In the health sector, the most important recent development had been the construction of a dedicated women and children's wing in the State hospital, which was expected to be fully operational by the end of 2014.

7. Looking to the future, one of the policy developments likely to be of most importance to women, and especially to working mothers, was the Government's efforts to recognize and respond to the need for work-life balance. To address incipient concerns about the increasing pressures that women faced as they attempted to juggle work and home responsibilities, a work-life balance programme had been launched within the civil service, offering workshops for male and female employees that covered effective parenting skills, communication and time management. The workshops ran on a quarterly basis and were also open to private sector employees. The aim was to nurture a culture which harmonized the two necessities and acknowledged women's significant contributions to building a solid foundation for national development that started from home.

8. Since joining the United Nations in 1984, Brunei Darussalam had become an increasingly active participant in international human rights initiatives, including in gender-related projects and programmes. In particular, in 2013, her Government had presided over the Association of Southeast Asian Nations (ASEAN) when its leaders had issued the Declaration on the Elimination of Violence against Women and Children and the Declaration on Social Protection – two documents that would guide the Association's work towards ensuring the protection and welfare of vulnerable groups, especially women and children.

9. The Government of Brunei Darussalam acknowledged the challenges facing it in fulfilling its obligations under the Convention. More specifically, it was aware of the need for more sex-disaggregated data and for greater capacity-building, gender mainstreaming and gender-responsive budgeting, policy analysis and advocacy. In those areas and others, it looked forward to working more closely with United Nations bodies as it strove to enhance the national machinery for women and further the advancement of all women in Brunei Darussalam.

10. **The Chairperson**, speaking in her capacity as an expert, asked the State party to ensure that it provided adequate responses to the concerns that would inevitably be raised in relation to the Sharia Penal Code and urged it to consider reforming the Code, which represented a step backwards for human rights and would have a disproportionately injurious impact on women.

Ms. Jahan, Vice-Chairperson, took the Chair.

Articles 1 and 2

11. **Ms. Šimonović**, recalling that the State party had entered a general reservation to any provision of the Convention which might be "contrary to the Constitution of Brunei Darussalam and to the beliefs and principles of Islam", asked the delegation to clarify: the Convention's legal status in view of that reservation; which persons or bodies decided which provisions were applicable and which were not; how such decisions were made; and how the principles and rights established in specific articles were incorporated into the State party's dualist legal system. She also wished to know: whether the State party had fulfilled its undertaking under article 2 of the Convention to embody the principle of equality in its Constitution and other legislation; whether a definition of discrimination that was in line with article 1 had been incorporated into national legislation; whether the possibility of ratifying the Optional Protocol was under consideration; what mechanisms had been established to facilitate cooperation with NGOs; and whether the NGO sector contributed to the development of national policy on women's rights.

12. **Ms. Bareiro-Bobadilla** questioned the need for the general reservation. As the Constitution of a country generally ranked first in the legal hierarchy, there was no need for a specific declaration to that effect. Nor, moreover, were the principles of the Convention in conflict with the fundamental principles of Islam. She urged the State party to review its

position. She also enquired whether, upon acceding to the Convention, the State party had reviewed existing laws to identify any articles that ran counter to the Convention, as it was required to do under article 2, noting with concern that application of the Sharia Penal Code was likely to deepen rather than reduce discrimination.

13. **Ms. Haidar**, noting that the death penalty, as an irreversible punishment, could not be considered compatible with a religion to which the notion of *rahma* (mercy) was central, sought the delegation's assurances that the moratorium would remain in place despite the introduction of the Sharia Penal Code, which apparently allowed not only for the imposition of the death penalty but also for other penalties equivalent to torture or cruel, inhuman and degrading treatment, particularly in cases of extramarital or premarital sexual relationships. So long as adultery remained a criminal offence, women would continue to face violations of their right to dignity, privacy and equality. She therefore invited the delegation to explain what had triggered such a retrograde step in a country that purportedly espoused tolerance and diversity and had appeared to be moving in the right direction.

14. **The Chairperson**, speaking in her capacity as an expert, urged the State party to look at best practices in other Muslim countries with a view to identifying policies and measures for eliminating discrimination and advancing women's rights.

15. **Ms. Othman** (Brunei Darussalam) said that the nearly 500 registered NGOs in Brunei Darussalam included 20 women's associations and that 13 of them were affiliated to the Council of Women of Brunei Darussalam. The Government provided an enabling environment in which NGOs were encouraged to be active, independent and self-financing. Support mechanisms through which NGOs could seek advice, information and funds existed in all relevant ministries and, in the Ministry of Culture, Sports and Youth, that function was performed by the Department of Community Development. Funding was also available through Village Consultative Councils, which were very active in capacity-building and awareness-raising at the community level.

16. **Ms. Matarsat** (Brunei Darussalam) said that the Council of Women of Brunei Darussalam was an NGO coalition which represented a broad cross section of women. Its mission was to unite and strengthen women's resources and enhance their status in all fields. The Council organized conferences, seminars, advocacy workshops and counselling courses, ran training and awareness-raising programmes and, as a member of various national committees, contributed to decision-making and policy formulation processes. It received financial and technical assistance from the Department of Community Development and, as the national representative body for women, was a member of the ASEAN Confederation of Women's Organizations, the South East Asia Women's Caucus and the International Council of Women.

17. **Ms. Othman** (Brunei Darussalam) said that any concerns relating to perceived cases of discrimination against women could be addressed either directly to the Special Committee on Women or to the Department of Community Development, which served as the Committee's secretariat. The Department ran an anonymous round-the-clock hotline and referred all complaints received to the relevant agencies for action.

18. The review of national legislation necessary to identify provisions contrary to the Convention was one of the main lines of action envisaged under the National Action Plan on Women. In the course of the review process, the authorities would consider whether the reservations to the Convention might be lifted and whether new targeted anti-discrimination legislation was required. The review had already begun but, due to a lack of technical expertise and capacity limitations, would inevitably be a long-term project. Those involved had petitioned the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) for support but, as a relatively wealthy nation, Brunei Darussalam did not qualify for inclusion in its capacity development and training programmes.

However, there was no lack of institutional will and commitment and UN-Women had undertaken to provide technical assistance once the first reporting cycle had been completed.

19. **Ms. Taib** (Brunei Darussalam) said that international instruments could be incorporated into the national legal system by means of an implementing law or amendments to existing laws. As part of its efforts to implement the Convention, the Government had amended its employment policy to afford female graduates and female non-graduates equal employment opportunities and to allow both male and female civil servants to claim certain family benefits and had adopted laws relating to domestic violence. The Government had no plans to withdraw its reservation to article 9, paragraph 2, of the Convention. However, the Nationality Act provided that a minor could acquire the nationality of Brunei Darussalam if a parent or guardian who was a national of Brunei Darussalam applied for it on their behalf. The Government did not consider its general reservation to the Convention to run counter to its object and purpose. Brunei Darussalam remained committed to fulfilling the obligations that it had incurred under the Convention.

20. Brunei Darussalam had a dualist legal system whereby sharia courts and civil courts operated in parallel. Sharia courts heard cases relating to marriage, divorce, property and inheritance and criminal cases covered by sharia law. The civil courts heard all other cases, including criminal cases committed by non-Muslims and criminal cases not covered by sharia law. Following the enactment of the Sharia Penal Code Order of 2013, the jurisdiction of the sharia courts had been expanded to cover criminal offences that also fell within the jurisdiction of the civil courts, such as murder, rape and theft. In cases where the jurisdiction of the sharia and civil courts overlapped, a decision had to be taken on whether the Penal Code or the Sharia Penal Code was applicable. The Sharia Penal Code laid down very strict evidentiary requirements. The due process of law was respected in all cases and defendants were presumed innocent until proved guilty. The Government was still examining the possibility of ratifying the Optional Protocol to the Convention.

21. **Ms. Othman** (Brunei Darussalam) said that the crime rate in Brunei Darussalam had increased and that the country was becoming increasingly unsafe, especially for women. The Sharia Penal Code Order, which had expanded the jurisdiction of the sharia courts to cover certain criminal offences, had been enacted to deter criminals and to make Brunei Darussalam a safer place.

22. **Ms. Haidar** asked whether the Sharia Penal Code could also be applied to non-Muslims and in what circumstances. While the enactment of the Sharia Penal Code Order would undoubtedly deter criminals, the strict evidentiary requirements laid down in the Code would make it very difficult for women to prove crimes such as rape. In the case of rape, what safeguards were in place to ensure that a woman who had been raped but who could not provide the necessary evidence was not punished for having had extramarital sex? Apart from safety concerns, what other reasons were behind the decision to enact the Sharia Penal Code Order?

23. **Ms. Šimonović** said that the State party should refer to the Convention itself for guidance on how to mainstream the gender perspective and should continue to collaborate with the Committee and UN-Women in that endeavour. Recalling that States parties were required to limit the scope of any reservations to the Convention and to formulate any such reservations as precisely as possible, she invited the State party to reconsider its general reservation to the Convention, which could be interpreted as being incompatible with its object and purpose.

24. **Ms. Schulz** said that, while the provisions of the Penal Code applied to both men and women, there were some provisions of the Sharia Penal Code, including those relating to the right to self-defence, that appeared to apply only to men. She asked whether women

were consequently denied the right to self-defence. Noting with grave concern that adultery and homosexuality carried the death penalty, she asked whether the State party planned to reconsider its position on the death penalty.

25. **Ms. Bareiro-Bobadilla** said the fact that Brunei Darussalam was a developed country should not prevent it from availing itself of technical assistance when required. The Sharia Penal Code did not afford women who had been raped better protection; rather its strict evidentiary requirements and discriminatory provisions gave men greater licence to commit that crime. The State party had a responsibility to guarantee women access to justice on an equal footing with men, to punish perpetrators and to provide redress to victims.

26. **Ms. Zou Xiaojiao** asked whether the State party intended to adopt a comprehensive law prohibiting discrimination against women as defined in article 1 of the Convention.

27. **The Chairperson**, speaking in her capacity as an expert, suggested that the State party should consult other States parties in the region which had withdrawn their reservation to article 9, paragraph 2, of the Convention.

28. **Ms. Othman** (Brunei Darussalam) said that the Special Committee on Women and the Family Institution would be carrying out a review of the country's national legislation and would define discrimination against women in explicit terms in the relevant laws if necessary.

29. **Ms. Taib** (Brunei Darussalam) said that the Sharia Penal Code could be applied to non-Muslims when they committed criminal offences such as defaming the Prophet Mohammad or deriding the Koran. The Sharia Penal Code was applied to both Muslims and non-Muslims when they committed criminal offences such as having extramarital relations. Both Muslims and non-Muslims had to satisfy the strict evidentiary requirements in such cases. The crime of having extramarital relations could only be proved in one of two ways: by confession of one of the accused persons or by the testimony of at least four witnesses. In the case of a confession, only the confessor would be charged with the crime. The four witnesses had to faithfully perform their religious duties and refrain from committing major sins and were required to have seen the sexual act with their own eyes. If it could not be proved beyond all doubt that the crime of having extramarital relations had been committed, the perpetrators could be charged with a less serious offence. However, if the offence could not be proved under sharia law, the case could be heard by the civil courts.

30. **Ms. Pires** asked whether the Special Committee on Women and the Family Institution had discussed the impact of the Sharia Penal Code and whether the Special Committee could serve as a mechanism to monitor the application of the Sharia Penal Code and to assess its impact on women. She also wished to know whether the Department for Community Development possessed adequate financial and human resources to function effectively and to provide the necessary secretarial support to the Special Committee. Noting that the State party tended to place undue emphasis on the traditional role of women within the family, she asked what measures it had taken to promote the advancement of women as persons in their own right. How had the State party mainstreamed the gender perspective into the different government ministries and what challenges had it encountered along the way? Had the State party assessed its needs in terms of technical assistance and capacity-building? What progress had the State party made in establishing a system for collecting data disaggregated by sex? Had the national action plan on women yielded any positive results?

31. **Ms. Othman** (Brunei Darussalam) said that the Special Committee on Women and the Family Institution now met once a month to review the implementation of the various national action plans and to review and discuss the Sharia Penal Code and other legislation concerning women. However, it would take time to review the Sharia Penal Code in its

entirety. Gender mainstreaming, gender-responsive budgeting and the collection of data disaggregated by sex remained major challenges. The Government would require technical assistance if it were to make progress in those areas. A major development had been the introduction of a work-life balance programme for male and female civil servants.

32. **Ms. Noridah Hamid** (Brunei Darussalam) said that the Department for Community Development employed more than 280 officials. Within the Department, there was a section responsible for issues relating to women, children and the family. The section provided secretarial support to the Special Committee on Women and the Family Institution and coordinated stakeholders involved in implementing the various national action plans on women. The Special Committee was preparing to conduct research on issues affecting women in the country with a view to identifying policy gaps and challenges.

Articles 3 to 5

33. **Ms. Neubauer** said that, under the Convention, the State party was required to adopt special temporary measures to accelerate de facto equality between men and women. It was obvious from reading the State party's report that there was a lack of understanding of the purpose and scope of such measures. The State party had reported on the efforts that it had taken to afford men and women equal opportunities but not on the efforts that it had taken to accelerate de facto equality between the sexes. She asked whether discussions had been held on the need to adopt temporary special measures; whether policymakers were well versed in their use; and what measures the State party had taken to improve the situation of women who faced multiple forms of discrimination such as women with disabilities and women from vulnerable groups.

34. **Ms. Zou Xiaojiao** said that the Committee could also provide the State party with guidance on how to build its technical capacity.

35. **Ms. Gabr** said that the State party seemed to take a rather narrow view of the role of women in society. It appeared to place great emphasis on the traditional role of women within the family and underestimated the important part that women played in the labour market and in other sectors of society. She asked how women were portrayed in school textbooks and in the media and what measures the State party envisaged taking to modify the social patterns of conduct of men and women and to combat gender stereotypes. It should be recalled that sharia law had served to empower women within the family and in society. She requested clarification on the link between harmful traditional practices such as female genital mutilation and sharia law.

36. **Ms. Aear** asked whether steps had been taken to identify and combat harmful, gender stereotypes and promote the equal sharing of family and household responsibilities between men and women. She wished to know whether the Government intended to adopt legislation that specifically criminalized all forms of violence against women, including sexual violence, sexual harassment and psychological abuse, and requested further information on the prevalence of domestic violence in the State party, including the number of perpetrators who had been prosecuted and convicted for such offences. Lastly, she enquired as to whether the provisions of the Association of Southeast Asian Nations (ASEAN) Declaration on the Elimination of Violence against Women and Children had been incorporated into the national domestic violence prevention strategy.

37. **Ms. Othman** (Brunei Darussalam) said that progress towards de facto equality between men and women had been shown by girls' strong performance in tertiary education. Around 70 per cent of women, compared with 20 per cent of men were university graduates. The Government continued to take proactive steps to address persisting negative gender-based stereotypes and enable women to progress with their educations and careers. Through

its national work-life balance programme, the Government had taken measures to promote equal sharing of family and household responsibilities between men and women.

38. **Ms. Yusoff** (Brunei Darussalam) said that school textbooks also promoted gender equality and the national school curriculum had been designed to provide a balanced and broad education to both boys and girls.

39. **Ms. Noridah Hamid** (Brunei Darussalam) said that regular awareness-raising events were held in schools and villages to promote equal sharing of family responsibilities between men and women. The Government also encouraged girls to enrol in technical and vocational courses and apply for jobs traditionally held by men.

40. **Ms. Abdullah** (Brunei Darussalam) said that most girls underwent female circumcision, a hygienic and healthy practice that was not classified as female genital mutilation. Female circumcision had not adversely affected maternal mortality rates in the State party. On the contrary, it had contributed to an improvement in perinatal and neonatal mortality rates. There was no specific national legislation prohibiting female genital mutilation, but particularly serious cases could be prosecuted under the provisions of the Penal Code.

41. **Ms. Wahab** (Brunei Darussalam) said that there had been a decrease in the number of women reporting cases of domestic violence in recent years. Provisions prohibiting domestic violence had been introduced into the Islamic Family Law Act and the Married Women Act, and the national police force remained committed to preventing and combating domestic violence cases. It had set up a Human Trafficking Investigation Unit and a Women and Child Abuse Investigation Unit to investigate such offences and had taken steps to improve the reporting system for victims.

42. **Ms. Othman** (Brunei Darussalam) said that the Government had a zero-tolerance policy towards violence against women and children, in accordance with the ASEAN Declaration on the Elimination of Violence against Women and Children, and had set up an anonymous hotline for reporting domestic violence cases. Non-governmental organizations also contributed to national domestic violence prevention efforts and regularly conducted education and awareness-raising workshops with women. The number of women reporting cases of domestic violence had increased significantly after the Government had published its first brochure on identifying and preventing domestic violence, but the reporting rate had subsequently stabilized. In recent years, there had been a slight reduction in the number of cases reported, from 132 cases in 2007 to 111 cases in 2013. As for combating sexual harassment in the workplace, the Government had conducted awareness-raising campaigns on the issue and was in the process of establishing a sexual harassment protocol containing advice and guidance for women.

43. **Ms. Haidar** asked whether safeguards had been put in place to prevent women victims who became pregnant as a result of rape from being charged with the offence of adultery.

44. **Ms. Taib** (Brunei Darussalam) said that cases of rape which could not be proved under sharia law could be brought before the criminal courts. Women victims who fell pregnant as a result of rape could not be charged with adultery.

45. **Ms. Gabr**, supported by **the Chairperson**, urged the State party to abolish all forms of female genital mutilation, including female circumcision, in accordance with article 5 of the Convention.

Article 6

46. **The Chairperson**, speaking in her capacity as an expert, noted that trafficking in women and girls and exploitation of prostitution in the State party was governed by three

different laws. She therefore requested detailed information on the differences regarding the application and implementation of those laws, the number of complaints received on trafficking in women and exploitation of prostitution and investigations, prosecutions, convictions and penalties relating to such crimes. Similarly, she wished to know whether the State party intended to establish procedures for the identification and protection of victims and whether it intended to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol). She also asked whether the national human trafficking strategy contained a gender perspective and whether a monitoring mechanism had been established to evaluate its implementation. In addition, she enquired as to whether steps had been taken to develop a referral system for women victims of trafficking and provide them with access to shelters and protection from reprisals when bringing their cases before the courts. Lastly, she wished to know whether the State party held regular meetings with other ASEAN member States in order to devise joint initiatives to prevent and combat human trafficking in the region.

47. **Ms. Leinarte** asked whether prostitution was a criminal offence in the State party and whether women sex workers faced prosecution. She also wished to know whether the State party had taken steps to establish a strategy to reduce demand for prostitution and whether it would conduct research into the number of prostitutes in the country with specific reference to their nationality and ethnic origin.

48. **Ms. Othman** (Brunei Darussalam) said that the Trafficking and Smuggling of Persons Order was a recent addition to domestic legislation and that the national authorities were therefore more familiar with the provision of the Women and Girls Protection Act, which had been in force for a significantly longer period of time. The State party, in its capacity as the current chair of the ASEAN Committee on the Promotion and Protection of the Rights of Women and Children, had recommended drafting a human trafficking protocol for the region and had held regular meetings with other ASEAN member States in that regard. The Government had also devised an online child protection framework which aimed to prevent and combat online psychological and sexual abuse of children, particularly girls.

49. **Ms. Wahab** (Brunei Darussalam) said that the Human Trafficking Investigation Unit's main function was to review police reports on a daily basis for signs of suspected human trafficking activity. In 2013, the Unit had investigated over 100 suspected human trafficking cases. To date, the public prosecutor had brought four of those cases before the courts, one of which had resulted in a conviction of 4 years' imprisonment and a fine of 20,000 Brunei dollars. In addition, the Government had recently amended the Penal Code in order to criminalize sexual acts with minors, including cases of child prostitution and sexual grooming.

50. **Ms. Noridah Hamid** (Brunei Darussalam) said that the Government had established a referral system and two shelters for women victims of human trafficking.

51. **Ms. Taib** (Brunei Darussalam) took note of the Committee's concern regarding the differing penalties for trafficking under the Trafficking and Smuggling of Persons Order and the Women and Girls Protection Act and confirmed that the Government would consider harmonizing their provisions. Currently, it was left to the discretion of the public prosecutor to decide which of the two laws to invoke when prosecuting human trafficking cases. As for prostitution, chapter 22 of the Penal Code contained provisions prohibiting the sexual exploitation of women and girls.

Articles 7 to 9

52. **Ms. Nwankwo** asked whether the State party had taken specific measures, including temporary special measures, to promote women's participation in political and public life at all levels, in particular in the judiciary, in senior positions and the Foreign Service, including as ambassadors and heads of missions abroad. She asked the delegation to confirm whether women were eligible to vote and stand as candidates for all elections in the State party on an equal basis with men. Lastly, she requested updated sex-disaggregated data on the percentage of elected or appointed female officials in the State Legislative Council and information on the number of women ministers.

53. **Ms. Othman** (Brunei Darussalam) said that women were represented at all levels of the judiciary. Around 80 per cent of lawyers in the State party were women, and 7 out of 10 of the country's magistrates were women. Women could vote and stand as candidates in elections for village leaders. Representatives in the higher levels of Government such as the State Legislative Council were selected from the pool of elected village leaders. At present, there were two women in the State Legislative Council and that figure was expected to rise when the next set of members was appointed.

The meeting rose at 1 p.m